

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DOMINIQUE DEMONCHAUX,

Plaintiff,

-against-

UNITEDHEALTHCARE OXFORD AND  
OXFORD HEALTH PLANS (NY), INC.,

Defendants.

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Civ. Act. No.: 10 CIV. 4491 (DAB)

**NOTICE OF MOTION**

**ORAL ARGUMENT  
REQUESTED**

**DOCUMENT ELECTRONICALLY  
FILED**

**PLEASE TAKE NOTICE** that, upon the Declaration of Rodney Lippold dated August 31, 2011, and the exhibits annexed thereto, the Declaration of Shelley Lacroix dated August 26, 2011, and the exhibit annexed thereto, the Declaration of Venice Scott dated September 1, 2001, and the exhibit annexed thereto, the Declaration of Michael H. Bernstein, Esq., dated September 1, 2011, and the exhibits annexed thereto, the Rule 56.1 Statement of Material Facts, and Memorandum of Law in support, all simultaneously submitted herewith, Defendant, OXFORD HEALTH PLANS (NY), INC. (“Oxford”), s/h/a Unitedhealthcare Oxford, by its attorneys, Sedgwick LLP, will move this Court, on a date and at a time set by the Court, before the Hon. Deborah A. Batts, U.S.D.J., at the United States District Courthouse for the Southern District Of New York, 500 Pearl Street, New York, New York 10007-1312 for an Order pursuant to Rule 56, FED. R. CIV. PROC., granting summary judgment dismissing plaintiff’s Complaint, which seeks relief under the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §1001, *et seq.*, with prejudice, on the grounds that Oxford’s determination that plaintiff’s inpatient treatment was no longer “Medically Necessary” under the governing ERISA plan was not arbitrary and capricious and for such other and further relief this Court deems just and proper.

Dated: New York, New York  
September 1, 2011

Yours, etc.,

s/

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s/h/a Unitedhealthcare Oxford

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***Attorneys for Plaintiff***

DOMINIQUE DEMONCHAUX

**CERTIFICATE OF SERVICE**

I, BETSY D. BAYDALA, hereby certify and affirm that a true and correct copy of the attached **NOTICE OF MOTION** was served via **ECF and regular mail** on September 1, 2011 upon the following:

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***Attorneys for Plaintiff***  
***DOMINIQUE DEMONCHAUX***

Dated: New York, New York  
September 1, 2011

s/  
\_\_\_\_\_  
BETSY D. BAYDALA (BB 5165)